

(1989) 03 P&H CK 0069
In the Punjab And Haryana At Chandigarh
Case No : Second Appeal No. 152 of 1989

Punjab State Electricity Board, Patiala and another	APPELLANT
Vs	
Kishan Lal	RESPONDENT

Date of Decision : 31-03-1989

Acts Referred:

Constitution of India, 1950 — Article 14, 16
Electricity (Supply) Act, 1948 — Section 18

Citation : AIR 1990 P&H 80

Hon'ble Judges : Gokal Chand Mital, J

Bench : Single Bench

Advocate : S.C. Goyal and Ashok Aggarwal, for the Appellant; D.R. Mahajan and V.K. Mahajan, for the Respondent

Judgement

1. The respondent is an agriculturist and applied for grant of tubewell electric connection from nearest urban feeder but he was being given connection from rural feeder whereas tubewell connections were given to Swaran Singh, Baldev Singh, Ajaib Singh and Jang Singh from urban feeder. All the four persons had submitted the test report and deposited the amount after the plaintiff, but they have been given connections from the urban feeder and he is being discriminated against. It was also the plaintiff's case that Ajaib Singh and Jang Singh had applied for connections 4/5 years after the plaintiff and they have been given connections from urban feeder and he was being discriminated against.

2. Both the Courts found that the plaintiff had deposited the amount and got the test report submitted earlier to the four persons and yet he has been discriminated against. Since this amounted to violation of the rule of equality the suit was decreed by grant of mandatory injunction directing the PSEB to give connection to the plaintiff from the urban feeder. This is second appeal by PSEB.

3. The following table containing facts deserves to be kept in view

Name of the Applicant	Date of application	Date of demand notice	Date of test report
Date of deposit of amount by applicants	Date of acceptance of test report		

Baldev Singh 17-4-79 7-12-83 27-1-84 29-1-84 5-3-84

Sarwan Singh 9-6-79 7-12-83 20-2-84 1-3-84 20-3-84

Kishan Lal (plaintiff) 17-12-79 8-12-83 24-1-84 25-1-84 22-9-84

Jang Singh 6-2-84 18-2-84 21-2-84 22-2-84 12-3-84

Ajaib Singh 5-6-85 5-6-85 16-8-85 16-8-85 9-12-85

Whereas Baldev Singh and Sarwan Singh had applied 6 to 8 months prior to the plaintiff, Jang Singh and Ajaib Singh applied more than 4 and 5 years after the plaintiff. Demand notice was issued to Baldev Singh and Sarwan Singh a day before the demand notice issued to me plaintiff. The plaintiff submitted the test report earlier to Baldev Singh "and Sarwan Singh and also deposited the amount due before they did so. Date of acceptance of test report is not in the hands of the plaintiff and whatever was in the hands of the plaintiff, he did prior to Baldev Singh and Sarwan Singh. Jang Singh and Ajaib Singh came on the scene 4/5 years later. Even if an applicant moves earlier he loses his turn in view of instructions No. 24(e) contained in Sales Manual issued by the department and the precedence has to be given to those who deposit the amount earlier. In this view of the matter, the plaintiff is the person who had deposited the amount earlier to all the other four, and had to be given precedence. He had to be given electric connection for his tubewell from urban feeder even prior to Baldev Singh and Sarwan Singh. Not only that there was delay in giving electric connection to him, he has been denied electric connection from urban feeder. The reason given is that there was a revised policy. If that is so, that would equally apply to the other four also. The first two may be earlier applicants but the other two are those whose applications came 4 or 5 years later. The plea raised by the defendant does not stand the test of the rule of equality and the Courts below were right in granting the decree of mandatory injunction claimed by the plaintiff.

4. One argument raised on behalf of the PSEB may be noticed. The argument is that the grant of tubewell connection to the other four persons from urban feeder is also illegal. Had that been so proceedings would have been initiated against those four persons for cancelling the connection and for giving them connection from rural feeder. Since no action in this behalf has been taken the argument has no merit. All the same, if the stand of PSEB is right and they want to change connection of all tubewell owners from urban to rural feeder, they may initiate action but before taking a decision, they will give hearing to them and if after hearing the PSEB comes to the conclusion that the connection from urban feeder was erroneous, before disconnecting from urban feeder, a month's time would be given to them to challenge the order before the appropriate authority or Court. The period of one month will start from the date of conveyance of the order to change the electric connection from urban to rural feeder.

5. For the reasons recorded above, the appeal is wholly devoid of merit and is dismissed with costs throughout. Since stay was granted by this Court, the

appellant is directed to release tubewell electric connection to the plaintiff from urban feeder within a month. Since the plaintiff has been clamouring for obtaining connection from urban feeder, notwithstanding some formalities to be undertaken, the connection would be released within a prescribed time of one month and if anything is to be done by the plaintiff towards expenses etc. that can be claimed from him but because of that there will be no delay in releasing the connection.

6. Appeal dismissed.